

## **Final**

RHODE ISLAND SUPREME COURT  
ETHICS ADVISORY PANEL  
Opinion No. 98-14 Request No. 762  
Issued November 19, 1998

### **Facts:**

The inquiring attorney represents a client in a contingent fee matter that was referred to him/her by another attorney after a lawsuit had been filed. At the time the referral was made, there were criminal charges pending against the referring attorney. With the consent of the client, the inquiring attorney and the referring attorney agreed to "split" the contingent fee. The referring attorney was subsequently disbarred by the Rhode Island Supreme Court. The matter is nearing conclusion and the inquiring attorney seeks the Panel's guidance on the fee arrangement.

### **Issue Presented:**

The inquiring attorney asks whether he/she and the disbarred attorney may "split" the contingent fee and if not, whether the disbarred attorney may otherwise be compensated for his/her work on the case.

### **Opinion:**

The inquiring attorney and the disbarred attorney may not "split" the contingent fee in what the Panel presumes is 50-50 fee arrangement, unless each attorney provided one-half of the services on the matter. The disbarred attorney is entitled to be compensated for the reasonable value of the services he/she provided prior to suspension or disbarment.

### **Reasoning:**

Rule 1.5( e) permits lawyers to divide a fee either on the basis of the proportion of services they render, or on some other basis by written agreement between the lawyers and the client if each lawyer assumes responsibility for the representation. See Rule 1.5(e)(i). Having been disbarred, the referring attorney cannot assume the continued responsibility required by the provision of the rule which permits fee-sharing that is not based on the proportion of services rendered. Accordingly, the inquiring attorney and the disbarred attorney may not "split" the contingent fee under a 50-50 fee arrangement, unless each attorney provided one-half the services. However, the inquiring attorney may pay the disbarred attorney according to quantum meruit, that is, the reasonable value of the services that the disbarred attorney performed prior to suspension or disbarment. See Maryland State Bar Assoc., Op. 96-32 (1996); Michigan State Bar, Op. RI-270 (1996); R.I. Sup. Ct. Ethics Advisory Panel Ops. 92-87 and 92-81. If a division of the fee made in accordance with this opinion differs from the original fee agreement between the client and the lawyers, the Panel further advises the inquiring attorney to so advise the client.

